MOSS-ADAMS LLP
Certified Public Accountants | Business Consultants

WWW.MOSSADAMS.COM
3121 West March Lane, Suite 100
Stockton, CA 95219
T (209) 955-6100 F (209) 955-6199

Acumen. Agility. Answers.

June 26, 2012

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Connect America Fund, WC Docket No.10-90 and High-Cost Universal Service Support, WC Docket No. 05-337

Dear Ms. Dortch:

On April 25, 2012 the Wireline Competition Bureau (WCB) of the Federal Communications Commission (FCC) issued an Order (*Regression Order*) in the above referenced proceedings resolving outstanding issues related to the implementation of regression based limitations on capital expenditures and operating expenses included in the calculation of High Cost Loop Support (HCLS). In addition, the *Regression Order* establishes a mechanism to redistribute HCLS from limited carriers to carriers that are not limited. While we believe that the changes adopted are generally more appropriate than the proposals outlined in the *USF/ICC Transformation FNPRM*, the adopted methodology is still fundamentally flawed and should not be allowed to become effective on July 1, 2012.

In this letter, we urge the Commission to strongly consider a stay of the adopted limitations for a minimum of six months to further analyze comments provided by interested parties and to ensure that the limitations are appropriately calculated. Below, we provide numerous examples of inconsistent logic and incomplete data that plagues the regression model and necessitates such a stay. We recognize that this letter comes very late in the process, with the proposed limitations to take effect July 1, 2012, however we felt it necessary to add to, and to provide support for, the Application for Review and Petition for Stay recently filed by the Joint Rural Associations.[1] To allow these limitations to go into effect as currently calculated would arbitrarily reduce the support of numerous efficient carriers, contrary to the stated goals of the limitations.

[1] Application for Review of National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, and Western Telecommunications Alliance *In the Matter of Connect America Fund, WC Docket No. 10-90, and High-Cost Universal Service Support*, filed May 25, 2012.

Petition for Stay of National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, and Western Telecommunications Alliance *In the Matter of Connect America Fund, WC Docket No. 10-90, and High-Cost Universal Service Support*, filed May 25, 2012.

Examples of Inconsistent Logic

Road miles as a surrogate for cable miles. It is commonly known that the more cable miles that a company has, the more investment it will have in cable facilities, and also likely subscriber circuit equipment. However, the regression analysis illogically develops a negative coefficient for road miles, for both capital expenditures and operating expenses. A negative coefficient means that the more road miles that a company has, the lower its capital expenditures and operating expenses should be. This is counter intuitive if road miles are a true surrogate for cable miles. In addition, the regression analysis concludes that road crossings have an increasing impact on the cost of building a telecommunications network. The result is a double penalty for very rural carriers, who typically have a great deal of road miles with very few road crossings, which are much more prevalent in high population density areas. As a result, the model produces lower costs for those carriers that one would expect to have the highest costs. It should also be noted that the most rural carriers will serve many farms and ranches that live off of roads and driveways that are likely not recognized in the Tele Atlas database.

The coefficient for Percent of Undepreciated Plant is positive for both capital expenditures and operating expenses. As a result, a company that has just replaced all of its copper loop plant with fiber to the home will have a very high Percentage of Undepreciated Plant, and will therefore have the ability to invest in even more loop facilities and incur associated expenses. At the same time, a company that has not upgraded its loop plant will have a very low Percentage of Undepreciated Plant, and will not have the ability to invest in loop facilities or incur expenses. So, in order to be able to continue to invest in loop plant, a company that has a very low Percentage of Undepreciated Plant may be required to retire existing loop plant before investing in the new plant. This is putting the proverbial cart before the horse; companies must invest in replacement facilities before they are able to retire the existing facilities.

It should also be noted that carriers that are able to efficiently utilize older facilities, such as copper plant, in conjunction with newer facilities, such as fiber, are penalized by the regression analysis as currently constituted. The current model rewards carriers that may have replaced useful, yet aging, facilities two or more years ago by providing them with additional room under the capital expenditure and operating expense limitations. This result would appear to be contrary to the Commission's intention that the Wireline Competition Bureau develop incentives for rate-of-return carriers to "invest prudently and operate efficiently".

The Percent Urban coefficient is positive for both capital expenditures and operating expenses, meaning that it is more costly to serve in urban environments than it is to serve in non-urban areas. This is a non-sensical result, as urban areas will naturally have much greater customer density and significantly shorter loop lengths. One of the primary drivers of costs in rural areas is the dispersion of customers and the necessity to build more facilities to serve each customer.

Example of Incomplete Data

The FCC recognizes that the Tele Atlas database that is used to determine study area boundaries has significant data errors and has provided a simplified waiver process for carriers to update their data. There are numerous problems with this proposal. First, for 2012, updates are optional and not mandatory, so only companies that believe they will benefit from the update will file for a waiver. Second, only an individual company's results will be updated with the revised data, and not the overall database. As a result, the individual company inputs to the regression calculation will be accurate for most companies, but the coefficients that are calculated using data for all rate of return companies will be incorrect for all companies (because not all study area boundary data will be corrected).

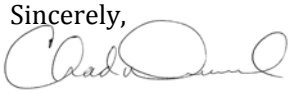
Interestingly the study area boundaries have a very significant impact on many of the independent variables in the analysis. When the study area boundary is compared to various other databases, it is used in the determination of many of the other independent variables. If the basis of these independent variables, study area boundaries and square miles, is incorrect then it can logically be concluded that all of the coefficients derived for these independent variables are also incorrect. The FCC should not implement a model for which it readily admits that the most impactful input, and potentially others, is significantly flawed, which then results in the output coefficients being equally flawed.

One of the requirements of Federal Universal Service Funding is that it must be sufficient and predictable. While we will not take the time here to debate sufficiency, it is clear that the inconsistencies and flaws in the regression model preclude High Cost Loop Support from being predictable. It is impossible for recipients to know what impact changes in their study area boundaries will have on the calculation of their company specific limitations on capital expenditures and operating expenses, let alone to estimate the impact that adjustments to many study areas will have on the coefficients against which they are measured. Absent a more clearly defined and accurate model, recipients of High Cost Loop Support have no way of predicting the level of their limitations or the amount of support that they are eligible for.

MOSS-ADAMS LLP

Based on the foregoing, and comments provided by a variety of other interested parties, the FCC must stay the application of the proposed regression based limitations on capital expenditures and operating expenses for a minimum of six months. Doing so will allow the Wireline Competition Bureau to further analyze the regression model and develop more appropriate independent variables and associated data. We appreciate your consideration of our positions outlined in this letter and would welcome further discussion of our concerns with you.

Sincerely,



Chad A. Duval
Moss Adams, LLP
3121 W. March Lane, Suite 100
Stockton, CA 95219
209-955-6100
Chad.Duval@mossadams.com